

REMARKS

This paper is filed in response to the Office Action dated March 30, 2004. As this paper is filed on August 30, 2004 with a two-month extension of time, the paper is timely filed.

I. Status of Amendments

Claims 1-21 were pending prior to this response. By the March 30 Office Action, claims 4-7 and 19-21 stand withdrawn. While applicants have not amended the claims herewith, applicants have submitted a new listing of the claims to reflect the change in status of certain of the claims based on the March 30 Office Action. Thus, claims 1-21 are now pending, with claims 4-7 and 19-21 withdrawn.

II. Response to the March 30 Office Action

Claims 1, 9-11 and 13 were rejected under 35 U.S.C. 102(e) as allegedly anticipated by Muir et al. (U.S. Patent No. 6,644,664). Claims 2, 3, 8, 12, and 14-18 were rejected under 35 U.S.C. 103 as allegedly unpatentable over Muir et al.

At the outset, applicant respectfully disagrees with the interpretation given to the “zigzag payline” of Muir et al. In the March 30 Office Action (at page 3), it is suggested that the zigzag payline means that the winning combination “can be arranged in a zigzag manner through the three dimensional elements.” The Office Action continues on to state: “By viewing the possible disclosed paylines, a non-three dimensional only would be the payline disclosed to be straight across any faces, wherein the disclosed payline of zigzagging through the elements would be indicative of a three-dimensional win evaluation, different from the other evaluation method.”

However, applicant submits that the reference to a “zigzag” payline is not a teaching or suggestion for a three dimensional payline, but a reference to a payline that extends in a single plane, albeit in a less than straight manner. Applicant particularly notes the passage at col. 4:12-18:

Referring now to FIG. 4 of the drawings yet a further embodiment is shown. In this case, indicia on the faces 46 of the element are standard spinning reel-type indicia. Horizontal, vertical and zigzag paylines are applicable to this game 20. In addition, indicia on the side faces and top faces also result in winning combinations if they appear on the relevant paylines.

Applicant submits that, if the zigzag paylines were arranged to include the indicia on the side and top faces as suggested in the Office Action, then it would not have been necessary to state that the indicia on the side and top faces also result in winning combinations *if they appear on the relevant paylines*. It is submitted that the zigzag paylines referred to in Muir et al. refer instead to, for example, the "W"-shaped paylines that appear in the plane defined by the front faces of the elements, as is known in the art.

This argument also is consistent with the statements made regarding the horizontal and vertical paylines discussed at col. 1:60-65 and 4:20-38 of Muir et al., wherein indicia on the top and side faces are treated as sets separate and apart from the indicia on the front faces. In particular, applicants note that the passage at col. 1:60-65 states that "prizes may be awarded for at least one of winning combinations of indicia on top faces of the elements and winning combinations of indicia on side faces of the elements, *in addition to prizes being awarded for winning combinations of indicia on front faces of the elements.*" Thus, in keeping with the passage cited above and this section of column 1, in the passage at col. 4:35-38, prizes are awarded for a vertical pattern of 3xK (front faces), 3xQ (top faces) and 3xJ (side faces).

As a consequence, it is submitted that Muir et al. does not recite the limitation of claim 1, wherein "said controller being programmed to receive a player selected game option from said user input device, the player selected game option being indicative of only one of a first win evaluation method or a second win evaluation method, wherein the first win evaluation method is different than the second win evaluation method, and wherein the first win evaluation method is a three-dimensional win evaluation method." To the extent that the three-dimensional paylines of Muir et al. are dependent upon the two-dimensional paylines selected, the allegedly corresponding player selected game option (payline) is not "indicative of only one of a first win evaluation method or a second win evaluation method." As such, Muir et al. does not disclose each and every limitation of claim 1, and the rejection should be withdrawn.

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As for claims 2, 3 and 8-18, which depend from claim 1, because claim 1 is not anticipated by Muir et al., these claims also are allowable. Moreover, because claim 1 is allowable and generic to claims 4-7, these claims too should be allowable.

In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance, and reconsideration is respectfully requested. If there is any matter that the Examiner would like to discuss, the Examiner is invited to contact the undersigned representative at the telephone number set forth below.

Respectfully submitted,

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